

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

January 19, 1979

MEMORANDUM FOR NEPA LIAISONS

SUBJECT: Agency Implementing Procedures Under CEQ's NEPA Regulations

Introduction

On November 29, 1978 the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA regulations"). The regulations are binding on all Federal agencies and were developed through interagency and public consultation, review and comment. The regulations appear at pages 55978-56007 of Volume 43 of the Federal Register.

Section 1507.3 of the NEPA regulations provides that each agency shall adopt procedures implementing the NEPA regulations by July 30, 1979 ("agency implementing procedures").* The purpose of this memorandum is to provide Federal agencies with general guidance for developing these implementing procedures.**

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- * Implementing procedures for programs administered under Section 102(2)(D) of NEPA or under Section 104(h) of the Housing and Community Development Act of 1974 must also be adopted by July 30, 1979. However, Section 1506.12 provides that the procedures for these programs will not become effective until November 30, 1979 -- four months after the deadline for their adoption. This four month hiatus has been established to allow State and local agencies involved in these programs to adjust their decisionmaking to new implementing procedures.

On a separate point, Section 1506.12(a) also provides that any agency may proceed under these regulations at an earlier time. By this we mean that an agency may either adopt and place into effect implementing procedures before the July 30, 1979 deadline, if approved by the Council, or, for selected proposals, conduct its environmental reviews under the regulations before that time. Agencies administering programs under Section 102(2)(D) of NEPA or under Section 104(h) of the Housing and Community Development Act of 1974 may proceed under the regulations before November 30, 1979 with the consent of the State or local agencies involved.

- ** In developing this memorandum we have consulted with, circulated drafts to, and met with a number of the NEPA liaisons from agencies which prepare significant numbers of EISs. We appreciate their contribution.

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Members of the Council's staff will be contacting you in the near future regarding a schedule for developing implementing procedures. We would like to become involved in your efforts early to avoid a last-minute crunch later in the year. We have attached as Appendix A a list of our staff members who will be available for consultation throughout the process.

Procedural Considerations

In developing implementing procedures under the NEPA regulations, agencies should bear in mind the following important considerations: First, the purpose of agency procedures is both to provide agency personnel with additional, more specific direction for implementing the procedural provisions of NEPA and to inform the public and State and local officials of how the NEPA regulations will be implemented in agency decisionmaking. Agency procedures should therefore provide Federal personnel with the direction they need to implement NEPA on a day-to-day basis. The procedures must also provide a clear and uncomplicated picture of what those outside the Federal government may do to become involved in the environmental review process under NEPA.

Second, the NEPA regulations provide that each agency shall as necessary adopt procedures to supplement the regulations (Section 1507.3). Major agency subunits are also encouraged (with the consent of the department) to adopt their own procedures. Departmental procedures would then address issues of general concern for all of its agencies; an individual agency's procedures would address the particulars of its own planning and decisionmaking.

Third, agency implementing procedures are not required to, nor is it desirable that they address every section of the regulations. The sections which must be addressed are identified in Section 1507.3(b). This is detailed in the "NEPA Procedures Checklist" enclosed herewith. Agencies are encouraged to address other sections where this would further implementation of the NEPA regulations.

Fourth, while the format for implementing procedures is largely a matter of agency discretion, the following points should be noted:

- (1) By Executive Order 11991, the President directed the Council to establish a single and definitive set of uniform standards for implementing NEPA government-wide. Therefore, while agencies may quote the regulations in their implementing procedures, they shall not attempt to restate or otherwise paraphrase the regulations (Section 1507.3(a)). Agencies shall confine themselves to procedures which make the standards established by the NEPA regulations effective in the context of their decisionmaking.

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(2) Agencies may quote from the regulations to provide a context for implementing procedures. For example, an agency may quote from Section 1508.9 on environmental assessments as a means of introducing its own environmental assessment procedures. In addition, agencies may produce a single, self-contained document containing quotations from the NEPA regulations so that agency personnel need not refer back and forth from NEPA regulations to implementing procedures in conducting environmental reviews. However, whenever the NEPA regulations are quoted they must be quoted verbatim, properly cited, and set off in some fashion (e.g., italics, bold-faced type) so that the reader can readily distinguish between the NEPA regulations and agency implementing procedures.

You will understand the competing considerations that guide us here. On the one hand we intend the agency procedures to be the minimum length possible consistent with the regulations and this memorandum. On the other hand, we do not want to place readers in the position of having constantly to refer to other documents.

(3) Implementing procedures should cross-reference relevant sections of the regulations where they are not quoted in full. It is important to link agency procedures with corresponding sections in the NEPA regulations so that agency personnel will have a complete picture of the standards which govern the environmental review process. ✓

(4) Agency implementing procedures should where practicable follow the same sequence of procedural steps appearing in the NEPA regulations. It will be easier to work with both documents if the procedures and the regulations take a parallel approach.

Fifth, there is no need to include every detail of agency decisionmaking in the implementing procedures. The NEPA regulations contemplate the publication of further explanatory guidance with specific information that may not be appropriate for agency implementing procedures (Section 1507.3(a)). This further guidance, which may be in the form of an operating manual, administrative directives, explanatory bulletins, and other publications, must also be reviewed by the Council and made available to the public. ✓

Sixth, agencies with similar programs should consult with each other and the Council to coordinate their implementing procedures, especially for programs requesting similar information from applicants (Section 1507.3(a)). Opportunities exist to improve the environmental review process through a consistent approach to similar Federal programs. It is important that agencies combine efforts in developing this approach and ensure that, once developed, it is uniformly adopted in agency implementing procedures. We have attached as Appendix B a list of NEPA liaisons for all agencies who should be contacted for this purpose.

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Finally, in developing implementing procedures, agencies must allow time for review by the Council and the public. Section 1507.3(a) of the NEPA regulations establishes a three-step process leading to adoption of final procedures by July 30, 1979: Agencies shall consult with the Council in developing proposed implementing procedures. Agencies shall then publish their proposed procedures in the Federal Register for public review and comment. As the last step, and following changes made in response to comments received during the review period, agencies shall submit the final version of their proposed procedures for review by the Council for conformity with the Act and the NEPA regulations. The Council will complete its review within 30 days. The Council may thereafter make public the results of its reviews.

To ensure that this process is concluded by July 30, 1979, the Council recommends that agencies publish their proposed procedures in the Federal Register for comment no later than April 1, 1979 and submit by June 1, 1979 the final version of the procedures to the Council for review. Please note that the regulations go into effect and are binding throughout the government on July 30, 1979, regardless of whether an individual agency has adopted its procedures.

Once in effect, agency implementing procedures shall be filed with the Council, published in the Federal Register and made readily available to the public. Please note that Section 1507.3(a) of the regulations requires agencies continuously to review their policies and procedures and in consultation with the Council to revise them as necessary to ensure full compliance with the purposes and provisions of the Act.

Guidance for Developing Agency Implementing Procedures

We have enclosed with this memorandum a copy of the "NEPA Procedures Checklist" which the Council will use in evaluating agency implementing procedures. Many sections of the regulations will need no elaboration by agencies. Those sections of the regulations which must be addressed in agency procedures are marked with asterisks. Other sections described in the checklist or appearing in the regulations may be addressed, at the option of an agency, to further provide for implementation of the NEPA regulations in the agency's environmental review process.

The test for evaluating agency procedures is whether they provide the means to incorporate the standards of the regulations into agency planning and decisionmaking. The question we will ask, in other words, is whether the procedures will give practical effect to the provisions of the regulations in the agency's environmental review process.

In what follows, we elaborate several aspects of our guidance for developing agency implementing procedures.

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A. CARRYING OUT NATIONAL ENVIRONMENTAL POLICY AND GOALS

Section 1500.1(a) of the NEPA regulations states that

"The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. It establishes policy, sets goals (section 101), and provides means (section 102) for carrying out the policy. Section 102(2) contains 'action-forcing' provisions to make sure that federal agencies act according to the letter and spirit of the Act. The regulations that follow implement Section 102(2). Their purpose is to tell federal agencies what they must do to comply with the procedures and achieve the goals of the Act. The President, the federal agencies, and the courts share responsibility for enforcing the Act so as to achieve the substantive requirements of section 101."

In addition, Section 1500.1(c) states that

"Ultimately, of course, it is not better documents but better decisions that count. NEPA's purpose is not to generate paperwork -- even excellent paperwork -- but to foster excellent action...."

These statements of purpose place the procedural requirements of NEPA in the context of national environmental policies and goals and establish guiding principles for the development of agency implementing procedures.

B. ASSURING THAT THE NEPA PROCESS CORRESPONDS WITH MAJOR DECISION POINTS FOR PRINCIPAL AGENCY PROGRAMS

The NEPA regulations are designed to ensure that the data and analysis developed during the environmental review process is made available to agency planners and decisionmakers at the time when it will be of most value to them in formulating, reviewing and deciding upon proposals for agency action. Section 1501.2 provides, for example, that "[a]gencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values" Section 1501.2(b) states that "[e]nvironmental documents and appropriate analyses shall be circulated and reviewed at the same time as other planning documents."

In addition, Section 1502.5 provides that an "agency shall commence preparation of an environmental impact statement as close as possible to the time the agency is developing or is presented with a proposal" so that the statement "can serve practically as an important contribution to the decisionmaking process...." In the case of Federal projects, the EIS shall be prepared at the "feasibility analysis (go-no go) stage" (Section 1502.5(a)). For projects initiated elsewhere, the process shall commence "no later than immediately after the application is received" (Section 1502.5(b)). Agencies are encouraged in such cases to initiate their analyses even earlier.

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Moreover, Section 1505.1(d) directs agencies to adopt implementing procedures requiring that relevant environmental documents, comments and responses "accompany the proposal through existing agency review processes so that agency officials use the statement in making decisions." Agency implementing procedures must also ensure that "the alternatives considered by the decisionmaker are encompassed by the range of alternatives" discussed in these environmental materials (Section 1505.1(e)).

Agency implementing procedures must serve as the vehicle for ensuring that these critical issues of timing and integration are properly established in agency planning and decisionmaking processes. It is for this reason that Section 1505.1(b) provides that agency implementing procedures shall include "[d]esignating the major decision points for the agency's principal programs likely to have a significant effect on the human environment assuring that the NEPA process corresponds with them."

In order to conform with this section, an agency's procedures should include such information as a description of when the NEPA process starts, i.e. "the earliest possible time;" a designation of major decision points; an identification of the official making the major decisions; a description of what is decided at each major decision point; and a description of the environmental data and analysis that are to be made available to the decisionmaker at each major decision point.

Charts and other graphic aids may be useful in presenting this material.

C. IDENTIFYING TYPICAL CLASSES OF ACTION FOR SIMILAR TREATMENT IN THE NEPA PROCESS

Section 1507.3(c)(2) of the NEPA regulations provides that agency implementing procedures shall include:

"(2) Specific criteria for and identification of those typical classes of action:

(i) Which normally do require environmental impact statements.

(ii) Which normally do not require either an environmental impact statement or an environmental assessment (categorical exclusions (Sec. 1508.4)).

(iii) Which normally require environmental assessments but not necessarily environmental impact statements."

Section 1501.4 describes the way in which these categories are to be used in determining whether to prepare an environmental impact statement.

Section 1508.4 defines "categorical exclusion" to mean "a category of actions which do not individually or cumulatively have a significant

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effect on the human environment..." (the category described in 1507.3(b)(2) (ii) above). Section 1508.4 also states, however, that agency implementing procedures "shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect." When these extraordinary circumstances occur, the action or actions would not be treated as categorically excluded from the NEPA process.

Three things should be noted about this aspect of agency implementing procedures. First, Section 1508.18 of the regulations states that

"(b) Federal actions tend to fall within one of the following categories:

"(1) Adoption of official policy, such as rules, regulations, and interpretations adopted pursuant to the Administrative Procedure Act, 5 U.S.C. 551 et seq.; treaties and international conventions or agreements; formal documents establishing an agency's policies which will result in or substantially alter agency programs.

"(2) Adoption of formal plans, such as official documents prepared or approved by federal agencies which guide or prescribe alternative uses of federal resources, upon which future agency actions will be based.

"(3) Adoption of programs, such as a group of concerted actions to implement a specific policy or plan; systematic and connected agency decisions allocating agency resources to implement a specific statutory program or executive directive.

"(4) Approval of specific projects, such as construction or management activities located in a defined geographic area. Projects include actions approved by permit or other regulatory decision as well as federal and federally assisted activities."

Agencies should review this list of actions for purposes of establishing typical classes of action under Section 1507.3(b)(2).

Second, it is not sufficient simply to identify and categorize typical classes of agency actions under Section 1507.3(b)(2) of the regulations. Agency implementing procedures must also contain the "specific criteria" used for this purpose.

Third, categorical exclusions must be explicitly qualified as required by Section 1508.4. For each such exclusion, agency implementing procedures must describe at least in general terms "the extraordinary circumstances in which a normally excluded action may have a significant environmental effect" and include a description of the procedures which would be followed by the agency in recognizing such an exception.

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D. INTEGRATING NEPA REQUIREMENTS WITH OTHER ENVIRONMENTAL REVIEW AND CONSULTATION REQUIREMENTS

One important purpose of the regulations is "[i]ntegrating NEPA requirements with other environmental review and consultation requirements" (Sections 1500.4(k), 1500.5(g)). Section 1502.25(a) provides, for example, that:

"To the fullest extent possible, agencies shall prepare draft environmental impact statements concurrently with and integrated with environmental impact analyses and related surveys and studies required by the Fish and Wildlife Coordination Act (16 U.S.C. Sec. 661 et seq.), the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470 et seq.), the Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), and other environmental review laws and executive orders."

To this end, Section 1501.7(a)(6) requires that as part of the scoping process agencies identify other environmental review and consultation requirements so that other required analyses and studies may be prepared concurrently with, and integrated with, the environmental impact statement (see Sections 1502.25(b), 1503.3(c), (d)).

We have attached as Appendix C a list of the major environmental review and consultation requirements for Federal agencies. Agency implementing procedures should identify those requirements that apply to agency actions, and the analyses, surveys and studies which they entail. The implementing procedures should also describe the process by which these requirements are met and indicate how this process will be made to run concurrently with, and integrated with, the NEPA process in terms of timing, agency personnel involved, public review and comment, publication and use of documents, research and analysis, and so forth. However, agencies should not allow the incorporation of these other more narrowly focused environmental review and consultation requirements to detract from the comprehensive approach required by NEPA.

E. FACILITATING ENVIRONMENTAL REVIEWS FOR PRIVATE APPLICANTS

Section 1501.2(d) of the NEPA regulations states that each agency shall:

"(d) Provide for cases where actions are planned by private applicants or other non-Federal entities before Federal involvement so that:

"(1) Policies or designated staff are available to advise potential applicants of studies or other information foreseeably required for later Federal action.

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"(2) The Federal agency consults early with appropriate State and local agencies and Indian tribes and with interested private persons and organizations when its own involvement is reasonably foreseeable."

Section 1507.3(b)(1) states that agency implementing procedures shall include the procedures required by Section 1501.2(d).

To fulfill these requirements, agency implementing procedures should accomplish the following:

- (a) Identify types of actions initiated by private parties, State and local agencies and other non-governmental entities for which agency involvement is reasonably foreseeable;
- (b) Establish policies for advising potential applicants of studies or other information foreseeably required for later Federal action including the NEPA process. Such policies should provide for full public notice that agency advice on such matters is available, publications containing that advice such as a handbook for applicants, and early consultation in cases where agency involvement is reasonably foreseeable;
- (c) Designate agency personnel responsible for making the identifications and implementing the policies under subsections (a) and (b), above.

F. MITIGATION AND MONITORING

Section 1505.3 of the NEPA regulations states that

"Agencies may provide for monitoring to assure that their decisions are carried out and should do so in important cases. Mitigation (Section 1505.2(c)) and other conditions established in the environmental impact statement or during its review and committed as part of the decision shall be implemented by the lead agency or other appropriate consenting agency. The lead agency shall:

"(a) Include appropriate conditions in grants, permits or other approvals.

"(b) Condition funding of actions on mitigation.

"(c) Upon request, inform cooperating or commenting agencies on progress in carrying out mitigation measures which they have proposed and which were adopted by the agency making the decision.

"(d) Upon request, make available to the public the results of relevant monitoring."

Agencies are encouraged to address these requirements in their implementing procedures.

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G. OTHER MATTERS

1. Making Environmental Documents a Part of the Record in Administrative Proceedings

Section 1505.1(c) provides that agencies shall adopt procedures which require "that relevant environmental documents, comments, and responses be part of the record in formal rulemaking or adjudicatory proceedings." In addition, Section 1502.9(c)(3) of the NEPA regulations provides that agencies "[s]hall adopt procedures for introducing a supplement [to an environmental impact statement] into its formal administrative record, if such a record exists. Agency procedures must include provisions for implementing these requirements of the NEPA regulations. Section 1507.3(b)(1).

2. Informing the Public on the Status of the NEPA Process

Section 1506.6(e) of the NEPA regulations provides that agency implementing procedures shall indicate "where interested persons can get information or status reports on environmental impact statements and other elements of the NEPA process." See Section 1507.3(b)(1). Similarly, Section 1507.2(a) provides that "[a]gencies shall designate a person to be responsible for overall review of agency NEPA compliance."

3. Identifying Agencies With Special Expertise and Jurisdiction By Law

Some agencies have already made arrangements among themselves for cooperation in the environmental review process. Agency implementing procedures should describe the arrangements which exist, identify letters of agreement, memoranda of understanding and other written documents reflecting the arrangements, and indicate how these documents may be obtained by members of the public.

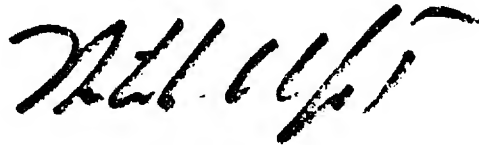
The Council is currently preparing a list of agencies with special expertise in prescribed resource areas and an analysis of agency jurisdiction by law under Federal statutes. When published, this information will assist lead agencies in identifying potential cooperating agencies for preparing environmental impact statements.

4. Cooperating With State and Local Agencies

Section 1506.2 of the NEPA regulations provides for cooperation with State and local agencies to reduce duplication between NEPA and State and local requirements. To this end, we have attached as Appendix D a list of State and local entities with environmental review requirements that appeared in the Council's 1977 Annual Report on Environmental Quality.

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We recognize that developing agency implementing procedures will be a challenging job. We will be available for consultation throughout this process and are prepared to meet with you to discuss the implementing procedures at the earliest mutually convenient time.

A handwritten signature in dark ink, appearing to read 'N. C. Yost', with a stylized flourish at the end.

NICHOLAS C. YOST
General Counsel

Enclosures

CEQ Regulations

Agency Procedures

Relevant
Sections Evaluation

This Checklist will serve as a basis for evaluating agency implementing procedures. Many sections of the regulations need no explanation by agencies. Those sections of the regulations which must be addressed in agency procedures are marked with asterisks. Other sections described in the Checklist or appearing in the regulations may be addressed, at the option of an agency, to further provide for implementation of the NEPA regulations in the agency's environmental review process. The sections below are ones which either must be addressed in implementing procedures or which the Council believes are especially pertinent to the procedures.

PART 1500 -- PURPOSE, POLICY, AND MANDATE

Part 1500 establishes the purpose, policy and mandate for the NEPA regulations. Agency implementing procedures must be evaluated in this light. The following sections provide a general basis for this evaluation. We intend not that these requirements be repeated in the agency procedures, but that the procedures be written in light of these purposes, policies and mandates.

SECTION 1500.1 PURPOSE

Section 1500.1(a) states that

"The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. It establishes policy, sets goals (section 101), and provides means (section 102) for carrying out the policy. Section 102(2) contains 'action-forcing' provisions to make sure that federal agencies act according to the letter and spirit of the Act. The regulations that follow implement Section 102(2). Their purpose is to tell federal agencies what they must do to comply with the procedures and achieve the goals of the Act. The President, the federal agencies, and the courts share responsibility for enforcing the Act so as to achieve the substantive requirements of section 102(2)."

This and other statements of purpose in Section 1500.1 place the procedural requirements of NEPA in the context of national environmental policies and goals and establish guiding principles for the development of agency implementing procedures.

SECTION 1500.4 REDUCING PAPERWORK

Agencies shall reduce excessive paperwork by:

- (a) Reducing the length of EISs (Section 1502.2(c)) by means such as page limits (Sections 1501.7(b)(1) and 1502.7).
- (b) Preparing analytic rather than encyclopedic EISs (Section 1502.2(a)).
- (c) Discussing only briefly issues other than significant ones (Section 1502.2(b)).
- (d) Writing EISs in plain language (Section 1502.8).
- (e) Following a clear format for EISs (Section 1502.10).
- (f) Emphasizing the portions of the EIS that are useful (Sections 1502.14 and 1502.15) and reducing emphasis on background material (Section 1502.16).
- (g) Using the scoping process to identify significant issues, deemphasize insignificant issues, and to narrow the scope of the EIS process (Section 1501.7).
- (h) Summarizing the EIS (Section 1502.12) and circulating the summary if the EIS is unusually long (Section 1502.19).

Relevant Sections	Evaluation
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	<u>Relevant Sections</u>	<u>Evaluation</u>
(i) Using program, policy, or plan EISs and tiering to eliminate repetition (Sections 1502.4 and 1502.20).		
(j) Incorporating by reference (Section 1502.21).		
(k) Integrating NEPA requirements with other environmental review and consultation requirements (Section 1502.25).		
(l) Requiring comments to be specific (Section 1503.3).		
(m) Attaching and circulating only changes to the draft EIS rather than the entire statement when changes are minor (Section 1503.4(c)).		
(n) Eliminating duplication with State and local procedures, by providing for joint preparation (Section 1506.2), and with other Federal procedures, by providing for adoption of EISs (Section 1506.3).		
(o) Combining environmental documents with other documents (Section 1506.4).		
(p) Using categorical exclusions (Section 1508.4).		
(q) Using findings of no significant impact (Section 1508.13).		

SECTION 1500.5 REDUCING DELAY

Agencies shall reduce delay by:

- (a) Integrating the NEPA process into early planning (Section 1501.2).
- (b) Emphasizing interagency cooperation before the EIS is prepared (Section 1501.6).
- (c) Insuring rapid resolution of lead agency disputes (Section 1501.5).
- (d) Using the scoping process for early identification of the real issues (Section 1501.4).

- (e) Establishing appropriate time limits (Sections 1501.7(b)(2) and 1501.8).
- (f) Preparing EISs early in the process (Section 1502.5).
- (g) Integrating NEPA requirements with other environmental review and consultation requirements (Section 1502.25).
- (h) Eliminating duplication with State and local procedures by providing for joint preparation (Section 1506.2) and with other Federal procedures by providing for adoption of EISs (Section 1506.3).
- (i) Combining environmental documents with other documents (Section 1506.4).
- (j) Using accelerated procedures for proposals for legislation (Section 1506.8).
- (k) Using categorical exclusions (Section 1508.4).
- (l) Using findings of no significant impact (Section 1508.13).

SECTION 1500.6 AGENCY AUTHORITY

Each agency shall interpret the provisions of the Act as a supplement to its existing authority and as a mandate to view traditional policies and missions in the light of the Act's national environmental objectives.

Agencies shall review their policies, procedures, and regulations accordingly and revise them as necessary to insure full compliance with the purposes and provisions of the Act.

PART 1501 -- NEPA AND AGENCY PLANNING

SECTION 1501.2 APPLY NEPA EARLY IN THE PROCESS

Agencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid off potential conflicts. Each agency shall:

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	Relevant Sections	Evaluation
(b) Identify environmental effects and values in adequate detail so they can be compared to economic and technical analyses. Environmental documents and appropriate analyses shall be circulated and reviewed at the same time as other planning documents.		
(c) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources as provided by section 102(2)(E) of the Act.		
*** (d) Provide for cases where actions are planned by private applicants or other non-Federal entities before Federal involvement so that:		
(1) Policies or designated staff are available to advise potential applicants of studies or other information foreseeably required for later Federal action.		
(2) The Federal agency consults early with appropriate State and local agencies and Indian tribes and with interested private persons and organizations when its own involvement is reasonably foreseeable.		
(3) The Federal agency commences its NEPA process at the earliest possible time.		
[Note: To fulfill these requirements, agency implementing procedures must accomplish the following:		
(a) Identify types of actions initiated by private parties, State and local agencies and other non-governmental entities for which agency involvement is reasonably foreseeable;		
(b) Establish policies for advising potential applicants of studies or other information foreseeably required for later Federal action including the NEPA process. Such policies should provide for full public notice that agency advice on such matters is available, detailed written publications containing that advice, and early consultation in cases where agency involvement is		

- (c) Designate agency personnel responsible for making the identifications and implementing the policies under subsections (a) and (b), above.]

SECTION 1501.3 WHEN TO PREPARE AN ENVIRONMENTAL ASSESSMENT

- (a) Agencies shall prepare an environmental assessment (Section. 1508.9) when necessary under the procedures adopted by individual agencies to supplement these regulations as described in Section 1507.3.

SECTION 1501.4 WHETHER TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT

In determining whether to prepare an environmental impact statement the Federal agency shall:

- *** (a) Determine under its procedures supplementing these regulations (described in Section 1507.3) whether the proposal is one which:

- (1) Normally requires an environmental impact statement, or
- (2) Normally does not require either an environmental impact statement or an environmental assessment (categorical exclusion).

* * * *

- (e) Prepare a finding of no significant impact (Section 1508.13), if the agency determines on the basis of the environmental assessment not to prepare a statement.

- (1) The agency shall make the finding of no significant impact available to the affected public as specified in Section 1506.6.
- (2) In certain limited circumstances which the agency may cover in its procedures under Section 1507.3, the agency shall make the finding of no significant impact available for public review (including State and areawide clearinghouses) for 30 days before the agency makes its final determination whether to prepare an environmental impact statement and before the action may begin. The circumstances are:

<u>Relevant Sections</u>	<u>Evaluation</u>
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- (i) The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement under the procedures adopted by the agency pursuant to Section 1507.3, or
- (ii) The nature of the proposed action is one without precedent.

SECTION 1501.5 LEAD AGENCIES

Subsection (d) provides for written requests to potential lead agencies for a lead agency designation. Subsection (e) provides that when a request for lead agency designation is filed with the Council, a copy of that request shall be transmitted to each potential lead agency. Agency procedures should identify the person or office where such requests should be mailed.

SECTION 1501.6 COOPERATING AGENCIES.

Each cooperating agency shall make available staff support at the lead agency's request to enhance the latter's interdisciplinary capability (Section 1501.6(b)(4)).

[Note: Some agencies have already made arrangements among themselves for cooperation in the environmental review process. Agency implementing procedures should describe the arrangements which exist, identify letters of agreement, memoranda of understanding and other written documents reflecting the arrangements, and indicate how these documents may be obtained by members of the public.]

SECTION 1501.7 SCOPING.

- (a) As part of the scoping process the lead agency shall:

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Relevant Sections	Evaluations
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(6) Identify other environmental review and consultation requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with, and integrated with, the environmental impact statement as provided in Section 1502.25.

(b) As part of the scoping process the lead agency may;

* * * *

(3) Adopt procedures under Section 1507.3 to combine its environmental assessment process with its scoping process.

* * * *

SECTION 1502.4 MAJOR FEDERAL ACTIONS REQUIRING THE PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS

Subsection (a) of Section 1502.4 states that "[p]roposals or parts of proposals which are related to each other closely enough to be in effect, a single course of action shall be evaluated in a single impact statement." Subsection (b) further states that "[e]nvironmental impact statements may be prepared, and are sometimes required, for broad Federal actions ... (Section 1508.18)". Subsection (c) sets forth several ways in which proposals may be evaluated when preparing EISs on broad actions.

Agency implementing procedures should identify categories of broad agency actions for which a single EIS will be prepared as provided in this section.

SECTION 1502.5 TIMING.

An agency shall commence preparation of an environmental impact statement as close as possible to the time the agency is developing or is presented with a proposal (Section 1508.23) so that preparation can be completed in time for the final statement to be included in any recommendation or report on the proposal. The statement shall be prepared early enough so that it can serve practically as an important contribution to the decision-making process and will not be used to rationalize or justify decisions already made (Sections 1500.2(c), 1501.2, and 1502.2).

Relevant Sections	Evaluation
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<u>Relevant Sections</u>	<u>Evaluation</u>
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- (a) For projects directly undertaken by Federal agencies the environmental impact statement shall be prepared at the feasibility analysis (go-no go) stage and may be supplemented at a later stage if necessary.
- (b) For applications to the agency appropriate environmental assessments or statements shall be commenced no later than immediately after the application is received. Federal agencies are encouraged to begin preparation of such assessments or statements earlier, preferably jointly with applicable State or local agencies.

* * * *

SECTION 1502.6 INTERDISCIPLINARY PREPARATION.

The disciplines of EIS preparers shall be appropriate to the scope and issues identified in the scoping process (Section 1501.7). (See Section 1502.17.)

SECTION 1502.9 DRAFT, FINAL, AND SUPPLEMENTAL STATEMENTS.

*** This section states that agencies shall adopt procedures for introducing a supplement into its formal administrative record, if such a record exists (Subsection (c)(3)).

SECTION 1502.20 TIERING

Section 1502.20 describes the concept of tiering in the following terms:

Whenever a broad environmental impact statement has been prepared (such as a program or policy statement) and a subsequent statement or environmental assessment is then prepared on an action included within the entire program or policy (such as a site specific action) the subsequent statement or environmental assessment need only summarize the issues discussed in the broader statement and incorporate discussions from the broader statement by reference and shall concentrate on the issues specific to the subsequent action.

Section 1508.28 describes the circumstances in which tiering is appropriate.

Agency implementing procedures should identify categories of agency actions for which tiering will be employed.

SECTION 1502.23 COST-BENEFIT ANALYSIS

An environmental impact statement should indicate those considerations, including factors not related to environmental quality, which are likely to be relevant and important to a decision.

SECTION 1502.25 ENVIRONMENTAL REVIEW AND CONSULTATION REQUIREMENTS.

- (a) To the fullest extent possible, agencies shall prepare draft environmental impact statements concurrently with and integrated with environmental impact analyses and related surveys and studies required by the Fish and Wildlife Coordination Act (16 U.S.C. Sec. 661 et seq.) the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470 et seq.), the Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), and other environmental review laws and executive orders.

[Note: Refer to Appendix C of the Memorandum For NEPA Liaisons for a list of the major environmental review and consultation requirements. Agency implementing procedures should identify those requirements that apply to agency actions, and the analyses, surveys and studies which they entail. The implementing procedures should also describe the process by which these requirements are met and indicate how this process will be made to run concurrently with, and integrated with, the NEPA process in terms of timing, agency personnel involved, public review and comment, publication and use of documents, research and analysis, and so forth. However, agencies should not allow the incorporation of these other more narrowly focused environmental review and consultation requirements to detract from the comprehensive approach required by NEPA.]

Relevant Sections	Evaluation
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PART 1505 -- NEPA AND AGENCY DECISIONMAKING

SECTION 1505.1 AGENCY DECISIONMAKING PROCEDURES

*** Agencies shall adopt procedures (Section 1507.3) to ensure that decisions are made in accordance with the policies and purposes of the Act. Such procedures shall include but not be limited to:

(*** (a) Implementing procedures under section 102(2) to achieve the requirements of sections 101 and 102(1).

*** (b) Designating the major decision points for the agency's principal programs likely to have a significant effect on the human environment and assuring that the NEPA process corresponds with them.

[Note: The NEPA regulations are designed to ensure that the data and analysis developed during the environmental review process is made available to agency planners and decisionmakers at the time when it will be of most value to them in formulating, reviewing and deciding upon proposals for major Federal action. See e.g. Sections 1501.2(b); 1502.5(a), (b); 1505.1(d), (e).

Agency implementing procedures must serve as the vehicle for ensuring that critical issues of timing and integration are properly established in agency planning and decisionmaking. It is for this reason that Section 1505.1(b) provides that agency implementing procedures shall include "[d]esignating the major decision points for the agency's principal programs likely to have a significant effect on the human environment assuring that the NEPA process corresponds with them."

In order to conform with this section, an agency's procedures should include such information as a description of when the NEPA process starts, i.e. "the earliest possible time;" a designation of major decision points; an identification of the official making the major decisions; a description of what is decided at each major decision point; and a description of the environmental data and analysis that are to be made available to the decisionmaker at each major decision point.]

Relevant Sections	Evaluation
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	Relevant Sections	Evaluation
*** (c) Requiring that relevant environmental documents, comments, and responses be part of the record in formal rulemaking or adjudicatory proceedings.		
*** (d) Requiring that relevant environmental documents, comments, and responses accompany the proposal through existing agency review processes so that agency officials use the statement in making decisions.		
(*** (e) Requiring that the alternatives considered by the decisionmaker are encompassed by the range of alternatives discussed in the relevant environmental documents and that the decisionmaker consider the alternatives described in the environmental impact statement. If another decision document accompanies the relevant environmental documents to the decisionmaker, agencies are encouraged to make available to the public before the decision is made any part of that document that relates to the comparison of alternatives.		

SECTION 1505.2 RECORD OF DECISION IN CASES REQUIRING ENVIRONMENTAL IMPACT STATEMENTS

Section 1505.2 requires agencies to prepare a concise public record of decision. The record shall, among other things, state what the decision was, identify all alternatives considered, and state whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not. Agencies are encouraged to address the requirement for a record of decision in their implementing procedures.

SECTION 1505.3 IMPLEMENTING THE DECISION

Section 1505.3 of the NEPA regulations states that

"Agencies may provide for monitoring to assure that their decisions are carried out and should do so in important cases. Mitigation (Sec. 1505.2(c)) and other conditions established in the environmental impact statement or during its review and

committed as part of the decision shall be implemented by the lead agency or other appropriate consenting agency. The lead agency shall:

"(a) Include appropriate conditions in grants, permits or other approvals.

"(b) Condition funding of actions on mitigation.

"(c) Upon request, inform cooperating or commenting agencies on progress in carrying out mitigation measures which they have proposed and which were adopted by the agency making the decision.

"(d) Upon request, make available to the public the results of relevant monitoring."

Agencies are encouraged to address these requirements in their implementing procedures.

PART 1506 -- OTHER REQUIREMENTS OF NEPA

SECTION 1506.2 ELIMINATION OF DUPLICATION WITH STATE AND LOCAL PROCEDURES

Subsection (b) of Section 1506.2 mandates Federal agency cooperation with State and local agencies to the "fullest extent possible" and describes several forms which this cooperation could take. Agency implementing procedures should identify categories of Federal action where such cooperation is possible and describe the steps which will be taken to cooperate with State and local agencies in such cases.

Subsection (c) mandates cooperation to reduce duplication between NEPA and comparable State and local requirements. This cooperation shall include, to the fullest extent possible, joint EISs. Agency implementing procedures should describe how the requirements of this subsection will be met when the State and local requirements for a proposal are comparable to NEPA.

Relevant Sections	Evaluation
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SECTION 1506.4 COMBINING DOCUMENTS

This section states that any environmental document in compliance with NEPA may be combined with any other agency document to reduce duplication and paperwork. Agencies should describe the circumstances in which this will be done.

SECTION 1506.5 AGENCY RESPONSIBILITY

(a) Information

Agencies must assist applicants by outlining the types of information required of them. Agencies shall independently evaluate the information submitted by the applicant and include the names of persons responsible for the evaluation in the list of preparers (Section 1502.17).

(b) Environmental assessments

Agencies are required to make their own evaluation of issues and take responsibility for the scope and content of environmental assessments prepared by applicants.

(c) Environmental impact statements

Contractors shall be chosen solely by Federal agencies to avoid any conflict of interest.

Agencies shall prepare disclosure statements for execution by contractors specifying that the contractor has no financial or other interest in the outcome of the project.

The responsible Federal official shall independently evaluate the EIS and take responsibility for its scope and contents.

<u>Relevant Sections</u>	<u>Evaluation</u>
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SECTION 1506.6 PUBLIC INVOLVEMENT

This section provides that agencies shall

- make diligent efforts to involve the public in preparing and implementing their NEPA procedures (subsection (a));
- provide public notice of NEPA related hearings and other elements of the NEPA process in prescribed ways (subsection (b));
- hold public meetings in accordance with statutory requirements and prescribed criteria (subsection (c));
- solicit appropriate information from the public (subsection (d));
- *** -- explain in its procedures where interested persons can get information on status reports on EISs and other elements of the NEPA process (subsection (e)); and
- make EISs and related documents available to the public under prescribed standards and without charge, to the extent practicable (subsection (f)).

[Note: Section 1506.6 is the principal section on public involvement in the NEPA process. It is imperative that it be scrupulously followed in agency implementing procedures.]

SECTION 1506.12 EFFECTIVE DATE

Subsection (a) of this section provides that

- the regulations shall apply to the fullest extent practicable to on-going activities and environmental documents begun before the effective date;
- the regulations do not apply to an EIS or supplement which was filed in draft form before the effective date of the regulations, i.e. July 30, 1979;
- the Council's guidelines take effect,

<u>Relevant Sections</u>	<u>Evaluation</u>

PART 1507 -- AGENCY COMPLIANCE

SECTION 1507.1 AGENCY COMPLIANCE

It is the intent of the regulations to allow each agency flexibility in adapting its implementing procedures to the requirements of other applicable laws.

SECTION 1507.2 AGENCY CAPABILITY TO COMPLY

Each agency shall be capable (in terms of personnel and other resources) of complying with the requirements enumerated below. Such compliance may include use of other's resources, but the using agency shall itself have sufficient capability to evaluate what others do for it. Agencies shall:

- (a) Fulfill the requirements of Section 102(2)(A) of the Act to utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision-making which may have an impact on the human environment.
- Agencies shall designate a person to be responsible for overall review of agency NEPA compliance.
- (b) Identify methods and procedures required by Section 102(2)(B) to insure that presently unquantified environmental amenities and values may be given appropriate consideration.
- (c) Prepare adequate EISs pursuant to Section 102(2)(C).
- (d) Study, develop, and describe alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources regardless of whether an EIS is required for the proposal (Section 102(2)(E)).
- (e) Comply with the requirements of Section 102(2)(H) that the agency initiate and utilize ecological information in the planning and development of resource-oriented projects.

Relevant Sections	Evaluation
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[NOTE: Section 1508.18(b) of the regulations states that Federal actions tend to fall within one of four categories -- policies, plans, programs, and projects -- and gives examples of each. Agencies should use these categories in identifying typical classes of actions under this section.

[In addition, in developing specific criteria and identifying typical classes of action for similar treatment under Section 102(2)(C) of NEPA, agencies will be required to determine whether those actions may "significantly" affect the quality of the human environment. Section 1508.27 defines the term "significantly" and agencies must follow this definition.

[Moreover, Section 1508.25 of the regulations defines the term scope as consisting of "the range of actions, alternatives, and impacts to be considered in an environmental impact statement," and sets forth the factors which must be weighed in determining the scope of an EIS. For classes of action which normally require an EIS, agencies are encouraged to discuss the scope of the EIS that will be prepared.

[Finally, categorical exclusions must be explicitly qualified as required by Section 1508.4. For each such exclusion, agency implementing procedures must describe at least in general terms "the extraordinary circumstances in which a normally excluded action may have a significant environmental effect" and include a description of the procedures which would be followed by the agency in recognizing such an exception.]

- (c) Agency procedures may include specific criteria for providing limited exemptions for classified proposals, as prescribed.
- (d) Agency procedures may provide for periods of time other than those presented in Section 1506.10 when necessary to comply with other specific statutory requirements.
- (e) Agency procedures may provide that where there is a lengthy period between the agency's decision to prepare an environmental impact statement and the time of actual preparation, the notice of intent required by Section 1501.7 may be published at a reasonable time in advance of preparation of the draft EIS.

Relevant Sections	Evaluation
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APPENDIX A

January 19, 1979

CEQ Staff Contacts

(The legal staff should be the first point of contact.)

<u>Major Agencies</u>	<u>Policy Staff</u>	<u>Legal Staff</u>
ACTION	Baldwin	Nicholas
Advisory Council on Historic Preservation	Baldwin	Nicholas
Agriculture	Smythe	Jamieson
Animal and Plant Health Inspection Serv.	Smythe	Jamieson
Farmers Home Administration	Kane	Jamieson
Forest Service	Williams	Jamieson
Rural Electrification Administration	Brubaker	Jamieson
Science and Education Administration	Smythe	Jamieson
Soil Conservation Service	Smythe	Jamieson
Appalachian Regional Commission	Smythe	Jamieson
Arms Control & Disarmament Agency	Brubaker	Knight
Central Intelligence Agency	Brubaker	Knight
Civil Aeronautics Board	Kane	Nicholas
Commerce	Kane	Knight
Economic Development Administration	Kane	Knight
National Oceanic & Atmospheric Admin.	Gillman	Knight
Community Services Administration	Kane	Nicholas
Consumer Product Safety Commission	Bastian	Nicholas
Defense	Baldwin	Knight
Air Force	Baldwin	Knight
Army	Baldwin	Knight
Corps of Engineers (Civil Works)	Smythe	Jamieson
Navy	Baldwin	Knight

Energy	MacKenzie	Jamieson
Bonneville Power Administration	MacKenzie	Jamieson
Federal Energy Regulatory Commission	Brubaker	Jamieson
Environmental Protection Agency	Burmaster	Knight
Executive Office of the President	Strohbehn	Nicholas
Office of Management and Budget	Strohbehn	Nicholas
Export-Import Bank	Bennsky	Knight
Federal Communications Commission	Kane	Nicholas
Federal Maritime Administration	Kane	Nicholas
Federal Reserve System, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, Federal Savings & Loan Insurance Corporation, National Credit Union Administration, Farm Credit Administration	Kane	Nicholas
Federal Trade Commission	Kane	Nicholas
General Services Administration	Kane	Nicholas
Health, Education & Welfare	Karch	Nicholas
Food & Drug Administration	Karch	Nicholas
Indian Health Service	Kane	Nicholas
National Institutes of Health	Karch	Nicholas
Housing and Urban Development	Kane	Nicholas
Interior	Smythe	Jamieson
Bureau of Indian Affairs	Smythe	Jamieson
Bureau of Land Management	Williams	Jamieson
Bureau of Mines	Smythe,	Jamieson
Bureau of Reclamation	Smythe	Jamieson
Geological Survey	Smythe	Jamieson
Heritage Conservation & Recreation Serv.	Baldwin	Jamieson
National Park Service	Williams	Jamieson

Interior (continued)

Office of Surface Mining Control and Reclamation	Smythe	Jamieson
Interstate Commerce Commission	Kane	Nicholas
Justice	See legal staff.	Knight
Law Enforcement Assistance Admin.	Kane	Knight
Labor	Karch	Nicholas
Marine Mammal Commission	Gillman	Knight
METRO	Baldwin	Nicholas
National Aeronautics & Space Admin.	Buffington	Nicholas
National Capital Planning Commission	Baldwin	Nicholas
National Science Foundation	Brubaker	Nicholas
Nuclear Regulatory Commission	Brubaker	Jamieson
Overseas Private Investment Corporation	Bennsky	Knight
Pennsylvania Avenue Development Corp.	Baldwin	Nicholas
Postal Service	Kane	Nicholas
Securities & Exchange Commission	Kane	Nicholas
Small Business Administration	Kane	Nicholas
Smithsonian	Smythe	Nicholas
State	Bennsky	Knight
Agency for International Development	Bennsky	Knight
Tennessee Valley Authority	Smythe	Jamieson
Transportation	Kane	Knight
Coast Guard	Kane	Knight
Federal Aviation Administration	Kane	Knight
Federal Highway Administration	Kane	Knight
Federal Railroad Administration	Kane	Knight

Transportation (continued)

National Highway Traffic Safety Admin.	Kane	Knight
Urban Mass Transportation Admin.	Kane	Knight
Treasury	Kane	Knight
Veterans Administration	Kane	Nicholas
Water Resources Council	Smythe	Jamieson
River Basin Commissions	Smythe	Jamieson

NOTE: This list of agencies is not necessarily comprehensive. Agencies not listed above should contact Jim Jamieson in the Office of the General Counsel at CEQ (Tel. 395-5750).

Telephone Numbers

Malcolm Baldwin	395-4522
Carroll Bastian	395-4980
George Bennsky	395-5780
Gerry Brubaker	395-4946
Doug Buffington	395-5760
David Burmaster	395-4904
Kitty Gillman	395-5780
Jim Jamieson	395-5750
Nate Karch	395-4980
Foster Knight	395-4616
Michael Kane	395-4522
Jim MacKenzie	395-4946
Bob Nicholas	395-4616
Bob Smythe	395-4540
Larry Williams	395-4540

APPENDIX B

NEPA Liaisons*

Agriculture

Barry Flamm
Office of the Secretary
TEL: 447-3965

Rural Electrification Admin.

Blain D. Stockton, Jr.

Central Intelligence Agency

James H. McDonald
Director of Logistics
TEL:

Commerce

Sidney R. Galler
Room 3425
TEL: 377-4335

NOAA

Eldon Greenberg, Esq.
General Counsel
TEL: 377-4080

Defense

Army

William Hedeman

Navy

Edward W. Johnson
TEL: 697-3689

Corps of Engineers

Lt. Col. George Boone
TEL: 693-7093

Energy

Robert Stern
TEL: 566-9760

Environmental Protection Agency

Peter L. Cook
TEL: 755-0770

Federal Maritime Administration

Paul Gonzales
Room 9102

General Services Administration

Carl W. Penland
Office of Space Management
TEL: 566-0405

Health, Education and Welfare

Charles Custard
Rm. 524F H H Humphrey Bldg.
TEL: 245-7243

Housing and Urban Development

Richard H. Broun
Rm. 758 HUD Building
TEL: 755-6308

Interstate Commerce Commission

Carl Vausch
Section of Energy and Environment
TEL: 275-7692

Interior

Bruce Blanchard
Rm. 4526 Interior Bldg.
TEL: 343-3891

Heritage Conservation & Recreation Service

Louis Reed, Jr.
TEL: 343-5711

Fish and Wildlife Service

Steve Taub
TEL: 376-8111

* This list of NEPA liaisons is not comprehensive. NEPA liaisons not listed should contact the General Counsel's Office at CEQ.

Bureau of Land Management	Nuclear Regulatory Commission
Robert Jones'	Voss Moore
TEL: 343-5682	Division of Site Safety & Environ. Analysis
Bureau of Reclamation	TEL: 492-8446
A. R. Jonez	State (AID)
TEL: 343-4991	Albert C. Printz, Jr.
Justice	Rm. 3246 State Dept. Bldg.
Lois Shiffer	TEL: 632-1036
Land & Natural Resources Div.	Transportation
TEL: 633-2704	Martin Convisser
Labor	Office of Policy & International Affairs
David Reich	TEL: 426-4357
Rm. S2312	Federal Highway Administration
TEL: 523-7303	Mike Lash
OSHA	TEL: 426-0351
Joanne Linhard	Urban Mass Transit Administration
TEL: 527-7111	Peter Benjamin
National Academy of Sciences	TEL: 472-2435
Raphael Kasper	Federal Railroad Administration
Environmental Studies Board	Mickey Klein
TEL: 389-6864	TEL: 426-9684
National Academy of Engineering	Federal Aviation Administration
Raphael Kasper	John E. Wesler
Institute of Medicine	TEL: 426-8406
TEL: 389-6864	Coast Guard
National Capital Planning Commission	Capt. John R. Kirkland
Patricia Crawford	TEL: 426-2007
Office of Environmental Affairs	Treasury
TEL: 724-0205	Anthony DiSilvestre
National Science Foundation	TEL: 376-0380
John P. Giacomini	
Room 641	
TEL: 632-7360	

Environmental Review and Consultation
Requirements

This Appendix lists the principal environmental review and consultation requirements and types of requirements which may be applicable to agency activities. A few of these requirements (e.g., Section 106 of the National Historic Preservation Act of 1966, Section 7 of the Endangered Species Act, and Executive Orders 11988, 11990) apply to all federal agency activities. Most review and consultation requirements apply to only a few federal agencies or to only a defined range of activities. Agencies should carefully analyze their activities to identify which environmental review and consultation requirements are applicable.

In implementing Section 1502.25 of the NEPA regulations agencies in their procedures should show both: 1) how documents required to be prepared for applicable environmental review and consultation requirements are to be integrated (or prepared concurrently) with NEPA documents, and 2) how the applicable consultation or commenting process is to be undertaken concurrently with circulation of the EIS. In general, compliance with NEPA is not per se compliance with applicable environmental review and consultation requirements. But compliance with both NEPA and applicable environmental review and consultation requirements can be greatly simplified by showing how the two fit together.

1. Cultural Resources Protection

Archeological and Historic Preservation Act of 1974
16 U.S.C. § 469a-1

National Historic Preservation Act of 1966 (Sec. 106)
16 U.S.C. § 470f

Antiquities Act of 1906 16 U.S.C. § 431

Executive Order 11593

2. Water Quality, Water Resources, Floodplains, Wetlands, Coastal Zone

Marine Protection, Research and Sanctuaries Act of 1972
(Sections 102, 103, 301.)
16 U.S.C. § 1431 et seq.

Safe Drinking Water Act of 1974 42 U.S.C. § 300f

Flood Disaster Protection Act of 1973
12 U.S.C. § 24, 1701-1 Supp
42 U.S.C. § 4001 et seq.

Coastal Zone Management Act of 1972
16 U.S.C. § 1451, 1456

Estuary Protection Act 16 U.S.C. § 1221

Executive Order 11988 (Floodplain Management)

Executive Order 11990 (Wetlands)

Federal Water Project Recreation Act (§ 6(a))
16 U.S.C. § 4601-17

Clean Water Act (§§ 208, 303, 401, 402, 404, 405, 511)
33 U.S.C. §§ 1288, 1314, 1341, 1342, 1344

River and Harbor Act of 1899 (§ 9 and § 10)
33 U.S.C. § 401 et seq.

Wild and Scenic Rivers Act of 1968 (Section 7)
16 U.S.C. § 1274 et seq.

Federal Power Act 16 U.S.C. § 797

Water Resources Planning Act of 1965
42 U.S.C. § 1962 et seq.

(Water Resources Council's Principles and Standards)

3. Wildlife

Endangered Species Act (Section 7)
16 U.S.C. § 1531 et seq.

Fish and Wildlife Coordination Act
16 U.S.C. § 661, 662

Fish and Wildlife Conservation at Small Watershed Projects
16 U.S.C. § 1001, 1005(4), 1008

4. Public Lands, Open Space, Recreation

- ° Environmental Review and Consultation Requirements for granting easements, rights of way and use permits on public lands, Indian reservation lands, parks, wilderness areas, etc. Statutes involved include:

Federal Land Policy and Management Act
43 U.S.C. § 1701, 1761-1771

Mineral Leasing Act Amendments of 1973
30 U.S.C. § 185

Environmental Review and Consultation Requirements for using special purpose lands for non-related purposes. These requirements are found in a number of statutes such as:

Land and Water Conservation Fund Act of 1965 (Section 6(f))
16 U.S.C. § 4601-8(f)

Open Space Lands 42 U.S.C. § 1500a(d)

Forest and Rangeland Renewable Resources Act
16 U.S.C. § 1601 et seq.

5. Oceanography

Deepwater Port Act 33 U.S.C. § 1501, 1503-1505

Ocean Dumping 33 U.S.C. § 1401, 1412, 1413, 1414

Marine Protection, Research and Sanctuaries Act
16 U.S.C. § 1431-1434

6. Transportation

Department of Transportation Act of 1966 (Section 4(f))
49 U.S.C. § 1653(f)

Federal Aid Highway Act of 1958
23 U.S.C. § 128, 138

Urban Mass Transportation Act of 1964
49 U.S.C. §§ 1602, 1610

Airport and Airway Development Act of 1970
49 U.S.C. § 1716

Federal Aviation Act 49 U.S.C. § 3334

7. Air Quality

Clean Air Act

42 U.S.C. § 7401 et seq.

8. Miscellaneous

Intergovernmental Coordination Act of 1968

42 U.S.C. § 4201, 4231, 4233

(A-95 review process, including urban impact analysis)

Demonstration Cities and Metropolitan Development Act of 1966

42 U.S.C. § 3334

APPENDIX D

STATE ENVIRONMENTAL IMPACT STATEMENT
REQUIREMENTS, MAY 1, 1977

States with
Comprehensive Statutory Requirements

CALIFORNIA

Source: California Environmental Quality Act of 1970, Cal. Pub. Res. Code, Section 21000-21176 (Supp. 1972), as amended by: Ch. 1154, Statutes of 1972, December 5, 1972; Ch. 895, Statutes of 1973, September 28, 1973; Ch. 56, Statutes of 1974, March 4, 1974; Ch. 276, Statutes of 1974, May 21, 1974; Ch. 1187, Statutes of 1975, September 30, 1975; Ch. 593, Statutes of 1976, August 27, 1976; Ch. 753, Statutes of 1976, September 7, 1976; Ch. 1312, Statutes of 1976, September 29, 1976.

Guidelines: California Administrative Code, Title 14, Division 6, Ch. 3 (Sections 15000 through 15192) and appendices adopted February 3, 1973, as amended December 14, 1973, January 18, 1974, March 26, 1974, December 30, 1974, January 30, 1975, February 18, 1975, January 6, 1976, October 8, 1976, December 8, 1976, December 23, 1976. Guidelines are prepared by the Resources Agency of California.

State Contact: Norman E. Hill, Assistant to the Secretary for Resources, The Resources Agency, 1414 Ninth Street, Sacramento, California 95815 (Phone: 916-445-9134).

CONNECTICUT

Source: Connecticut Environmental Policy Act of 1973, Pub. Act 73-562 (approved June 22, 1973), Conn. Gen. Stat. Ann. Ch. 439, Section 22a-1 et seq. (Cum. Supp. 1974-1975), effective February 1, 1975.

Guidelines: None.

State Contact: Gregory Sharp, Director, Information and Education, Department of Environmental Protection, State Office Building, Room 114, Hartford, Connecticut 06115 (Phone: 203-566-3489).

HAWAII

Source: Governor's Executive Order of August 21, 1974, as supplemented by Act 246, Sess. Laws of Hawaii (approved June 4, 1974), Hawaii Rev. Stat. Ch. 343 (1974).

Guidelines: "Rules and Regulations Pertaining to Chapter 343," promulgated in September 1975 by the Hawaii Environmental Quality Commission.

State Contact: Richard E. Marland, Director, Office of Environmental Quality Control, Office of the Governor, 550 Halekauwila Street, Room 301, Honolulu, Hawaii 96813 (Phone: 808-548-6915).

INDIANA

Source: IC 1971, 13-1-10-3, added by Pub. L. 98, 1972, Ind. Stat. Ann. Section 1-301(c) (effective July 1, 1975).

Guidelines: EMB-2; "The Definition of Actions of State Agencies Which Have a Significant Environmental Impact," effective August 7, 1975.

State Contact: Ralph Pickard, Technical Secretary, Environmental Management Board, 1330 W. Michigan Street, Indianapolis, Indiana 46206 (Phone: 317-633-4420).

MARYLAND

Source: Maryland Environmental Policy Act of 1973, Ch. 702, Md. Acts of 1973, 41 Ann. Code of Md., Section 447-451 (Cum. Supp. 1973), and Ch. 703, Md. Acts of 1973 Natural Res. Art., Ann. Code of Md., Section 1-301 *et seq.* (1974 Volume) *as amended* by Ch. 129 of the Md. Acts of 1975.

Guidelines: "Revised Guidelines for Implementation of the Maryland Environmental Policy Act," issued by the Secretary of the Department of Natural Resources, June 15, 1974.

State Contact: Joseph Knapp, Administrator, Clearing House Review, Department of Natural Resources, Tawes State Office Building, Annapolis, Maryland 21401 (Phone: 301-269-3548).

MASSACHUSETTS

Source: Ch. 781, Acts of 1972, Ann. Laws Mass. Ch. 30, Section 61-62 (Cum. Supp. 1973), *as amended* by Ch. 257 of the Acts of 1974.

Guidelines: "Regulations to Create a Uniform System for the Preparation of Environmental Impact Reports," July 6, 1973, *as amended* October 15, 1973, January 8, 1975. Guidelines are prepared by the Executive Office of Environmental Affairs.

State Contact: William Hicks, Director, MEPA Programs, Executive Office of Environmental Affairs, 100 Cambridge Street, Room 2000, Boston, Massachusetts 02202 (Phone: 617-727-7700).

MINNESOTA

Source: Minnesota Environmental Policy Act of 1973, Ch. 412, Laws of 1973, Minn. Stat. Ann. Ch. 116D (Cum. Supp. 1974).

Guidelines: "Rules and Regulations for Environmental Impact Statements," issued by the Minnesota Environmental Quality Council on April 4, 1974, *as amended* February 13, 1977.

State Contact: Joe Sizer, Director, Environmental Planning, Environmental Quality Council, Capital Square Building, 550 Cedar Street, St. Paul, Minnesota 55101 (Phone: 612-296-2712).

MONTANA

Source: Montana Environmental Policy Act of 1971, Ch. 238, L. 1971, Rev. Code Mont., Section 69-6501 *et seq.* (Cum. Supp. 1973), *as amended* April 21, 1975 (Ch. 65, Section 69-6508 and Section 69-6509).

Guidelines: Montana Environmental Quality Council, "Revised Guidelines for Environmental Impact Statements Required by the Montana Environmental Policy Act of 1971," issued September 19, 1975.

State Contact: Steven Perlmutter, Staff Attorney, Montana Environmental Quality Council, Capitol Station, Helena, Montana 59601 (Phone: 406-449-3742).

NEW YORK

Source: New York State Environmental Quality Review Act, Art. 8, New York State Environmental Conservation Law, effective June 1, 1976, *as amended and added* by Section 8-0117 (May 28, 1976).

Guidelines: 6 N.Y.C.R.R., Part 617, effective September 1, 1976.

State Contact: Jane Magee, CEQRA Coordinator, New York State Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233 (Phone: 518-457-6557).

NORTH CAROLINA

Source: North Carolina Environmental Policy Act of 1971 (1971, c. 1203, s.1), N.C. Gen. Stat. Ch. 113A (Cum. Supp. 1973).

Guidelines: North Carolina Department of Administration, "Guidelines for the Implementation of the Environmental Policy Act of 1971," issued February 18, 1972, updated March 1, 1975.

State Contact: Robert Thayer Broili, Environmental Planning Consultant, Department of Natural and Economic Resources, P.O. Box 27687, Raleigh, North Carolina 27611 (Phone: 919-733-2955).

SOUTH DAKOTA

Source: South Dakota Environmental Policy Act, SL 1974, Ch. 245 (approved March 2, 1974), S.D. Comp. Laws 1967, Ch. 11-1A (Supp. 1974).

Guidelines: Department of Environmental Protection, 1974 Informal Guidelines.

State Contact: Harold Lenhart, South Dakota Department of Environmental Protection, Foss Building, Pierre, South Dakota 57501 (Phone: 605-224-3351).

VIRGINIA

Source: Virginia Environmental Quality Act of 1973, Ch. 384, Laws of 1973 (approved March 15, 1973) and Ch. 774, Laws of 1972, Va. Code Ann. Sections 10-17.107 through 10-17.112 and 10-177 through 10-186 (Supp. 1973), as amended by Ch. 354, Laws of 1974 (approved April 4, 1974), Va. Code Ann. Section 2.1-51.9, Section 10.181, Section 10.183, and Section 10.185, as amended by Ch. 404, Acts of Assembly, 1977.

Guidelines: *Procedures Manual for Environmental Impact Statements in the Commonwealth of Virginia*, issued by the Governor's Council on the Environment (December 1973; revised January 1975).

State Contact: Reginald Wallace, Environmental Impact Statement Coordinator, Governor's Office, Council on the Environment, Eighth Street Office Building, Richmond, Virginia 23219 (Phone: 804-786-4500).

WASHINGTON

Source: State Environmental Policy Act of 1971, Rev. Code Wash. Ch. 43.21C (Supp. 1973), as amended by Sub. Senate Bill 3277, Ch. 179, Laws of 1974 (May 5, 1974).

NOTE: For State Highway Project Environmental Impact Report Requirements, see Rev. Code Wash. Ch. 47.04 (Supp. 1973).

Guidelines: "Guidelines for Implementation of the State Environmental Policy Act of 1971," prepared by the Department of Ecology, as revised by "State Environmental Policy Act Guidelines" (WAC 197-10), issued by the Council on Environmental Policy, January 16, 1976.

State Contact: Peter R. Haskin, Environmental Review Section, Office of Comprehensive Programs, State of Washington Department of Ecology, Olympia, Washington 98504 (Phone: 206-753-6890).

WISCONSIN

Source: Wisconsin Environmental Policy Act of 1971, Ch. 274, Laws of 1971, adding Wisc. Stat. Ann. Ch. 1, Section 1.11, et seq. (Cum. Supp. 1974-1975).

Guidelines: "Guidelines for the Implementation of the Wisconsin Environmental Policy Act," issued by Governor's Executive Order No. 69 (December 1973).

State Contact: Caryl Terrell, State WEPA Coordinator, Office of State Planning and Energy, State Capital, Madison, Wisconsin 53702 (Phone: 608-266-1718).

PUERTO RICO

Source: Puerto Rico Environmental Policy Act, 12 Laws P.R. Ann. Section 1121, *et seq.* (1970).

Guidelines: "Guidelines for the Preparation, Evaluation, and Use of Environmental Impact Statements," issued by the Environmental Quality Board on December 19, 1972.

Contact: Roberto Rexach, Executive Director, Environmental Quality Board, 1550 Ponce de Leon Avenue, 4th Floor, Santurce, Puerto Rico 19910 (Phone: 809-725-5140).

States with

Comprehensive Executive or Administrative Orders

MICHIGAN

Source: Michigan Executive Directive 1971-10, as superceded by Michigan Executive Order 1973-9, as superceded by Michigan Executive Order 1974-4 (May 1974).

Guidelines: Interim Guidelines, prepared by the Environmental Review Board and issued June 24, 1974. Revised guidelines were adopted in November 1975.

State Contact: Terry L. Yonker, Executive Secretary, Environmental Review Board, Department of Management and Budget, Lansing, Michigan 48913 (Phone: 517-373-0933).

NEW JERSEY

Source: New Jersey Executive Order No. 53 (October 15, 1973).

Guidelines: "Guidelines for the Preparation of an Environmental Impact Statement," issued by the Office of the Commissioner, Department of Environmental Protection, in 1973 and updated in February 1974.

State Contact: Lawrence Schmidt, Chief, Office of Environmental Review, Department of Environmental Protection, P.O. Box 1390, Trenton, New Jersey 08625 (Phone: 609-292-2662).

TEXAS

Source and Guidelines: *Policy for the Environment*, adopted by the Interagency Council on Natural Resources and the Environment on March 7, 1972, and published in "Environment for Tomorrow: The Texas Response," subsequently updated by "The Environment Policy—Guidelines and Procedures for Processing EISs," developed and adopted by the Interagency Council on Natural Resources and the Environment, published November 1975.

State Contact: Charles D. Travis, Director, Governor's Budget and Planning Office, Executive Office Building, 411 W. 13th Street, Austin, Texas 78701 (Phone: 512-475-6156).

UTAH

Source: State of Utah Executive Order, August 27, 1974.

Guidelines: As above.

State Contact: William C. Quigley, Assistant Attorney General, State Capitol Building, Office of the Attorney General, Salt Lake City, Utah 84114 (Phone: 801-533-7643).

States with
Special or Limited EIS Requirements

ARIZONA

Source: Game and Fish Commission Policy of July 2, 1971.

Guidelines: Memorandum by the Arizona Game and Fish Commission, "Requirements for Environmental Impact Statements," issued June 9, 1971.

State Contact: Robert D. Curtis, Chief, Wildlife Planning and Development Division, Arizona Game and Fish Commission, 2222 W. Greenway Rd., Phoenix, Arizona 85023 (Phone: 602-942-3000).

DELAWARE

Source: a) Delaware Coastal Zone Act, Ch. 175, Vol. 58, Laws of Del. (June 28, 1971), adding Del. Code Ann. Section 7001 *et seq.* (Supp. 1973), and b) Delaware Wetlands Law of 1973, adding 7 Del. Code Ann. Ch. 66 (Supp. 1973).

Guidelines: a) 7 Del. Code Ann. Ch. 66, Section 6604 (Supp. 1973), and "Permit Application Instructions and Forms and Information Material on Required Procedures for the Coastal Zone Act," prepared and published by the Delaware State Planning Office (effective July 1, 1977); this office will be known as the Delaware Office of Management, Budget, and Planning), and b) "Department of Natural Resources and Environmental Control, Wetlands Regulations," adopted pursuant to Section 6607 of the Wetlands Act, effective December 23, 1976.

State Contact: a) For the Coastal Zone Act—David Hugg, Manager, Coastal Zone Program, Delaware Office of Management, Budget, and Planning, Dover, Delaware 19901 (Phone: 302-678-4271).

b) For the Wetlands Act—William Moyer, Wetlands Manager, Department of Natural Resources and Environmental Control, Division of Environmental Control, Dover, Delaware 19901 (Phone: 302-678-4761).

GEORGIA

Source: Ga. L. 1972-179 (March 10, 1972), Ga. Code Ann. Ch. 95A-1, Section 241(e)(1) (1973).

Guidelines: Policy and Procedures Manual: State Tollway Authority, prepared by Georgia's Tollway Administrator's Office in May, 1972 and revised in February, 1973.

State Contact: Robert L. Austin, State Location Engineer, Division of Preconstruction, Department of Transportation, 2 Capitol Square, Atlanta, Georgia 30334 (Phone: 404-656-5312).

MISSISSIPPI

Source: Title 49, Chapter 27, Mississippi Code of 1972, Section 49-27:1—49-27:69, amended in 1974 to include 49-27-7(s), relating to Wetlands.

Guidelines: Rules and Regulations written by the Mississippi Marine Resources Council, July 10, 1973, revised April 15, 1975.

State Contact: Joe Gill, Jr., Marine Projects Manager, Mississippi Marine Resources Council, P.O. Drawer 959, Long Beach, Mississippi 39560 (Phone: 601-864-4602).

NEBRASKA

Source and Guidelines: Nebraska Department of Roads, *Department of Roads Action Plan* (1973), as revised by the *State of Nebraska Environmental Action Plan*, prepared by the Nebraska Department of Roads and approved by the Federal Highway Administration, June 24, 1975.

State Contact: Robert O. Kuzelka, Comprehensive Planning Coordinator, Office of Planning and Programming, Box 94601, State Capital, Lincoln, Nebraska 68509 (Phone: 402-471-2414).

NEVADA

Source: Ch. 311, Laws of 1971, 58 N.R.S. Ch. 704 (1971).

Guidelines: No guidelines have been issued.

State Contact: Ernest Gregory, Administrator, Environmental Protection Services, Department of Human Resources, 505 E. King Street, Room 600, Carson City, Nevada 89710 (Phone: 702-885-4730).

NEW JERSEY

Source: a) Coastal Area Facility Review Act, P.L. 1973, Ch. 185 (approved June 20, 1973), N.J.S.A. 13:19-1 *et seq.* (Cum. Supp. 1974-1975), and b) The New Jersey Wetlands Act of 1970, Ch. 272, Laws of 1970, N.J.S.A. 13:9A-1 *et seq.* (Cum. Supp. 1974-1975).

Guidelines: a) "Procedural Rules for the Administration of the Coastal Area Facility Review Act," prepared by the Department of Environmental Protection in 1974 and adopted April 1, 1977 and b) "New Jersey Wetlands Order: Basis and Background," issued by the New Jersey Department of Environmental Protection, April 1972, "Procedural Rules and Regulations to Implement the Wetlands Order," N.J.A.C. 7:7A-1 *et seq.*, adopted September 2, 1976.

State Contact: a) David N. Kinsey, Chief, Office of Coastal Zone Management, New Jersey Department of Environmental Protection, P.O. Box 1889, Trenton, N.J. 08625 (Phone: 609-292-8262), and b) Thomas F. Hampton, Supervisor, Office of Wetlands Management, Division of Marine Services, Department of Environmental Protection, P.O. Box 1889, Trenton, N.J. 08625 (Phone: 609-292-8202).

City NEPA's

BOWIE, MARYLAND

Source and Guidelines: The Bowie, Maryland Environmental Policy and Impact Statement Ordinance, passed by the City Council of Bowie, Maryland on May 3, 1971, and Ordinance 0-2-73 of the City Council of Bowie, Maryland, Declaring an Environmental Policy and Providing for Environmental Impact Statements, passed July 16, 1973, and Ordinance 0-14-76, Changing Notification and Referral Requirements under the Ordinance, passed September 8, 1976.

Contact: Bradford Pryce, Planning Director, Office of Planning and Community Development, City Hall, Bowie, Maryland 20715 (Phone: 301-262-6200).

NEW YORK CITY

Source: Executive Order No. 91, June 1, 1977. New York City is currently working on a replacement policy which will incorporate the Executive Order and the requirements of the New York State Law.

Guidelines: A "City Environmental Policy Executive Order Environmental Information Form" is utilized for environmental analysis. The Information Form was prepared by the City of New York Environmental Protection Administration in 1973.

Contact: Dorothy Green, Director, Office of Environmental Impact, New York City Department of Environmental Protection, Room 2344, Municipal Building, New York, New York 10007 (Phone: 212-566-4107).